Supreme Court, U. S.
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No. 77-1445

In the Supreme Court of the United States

OCTOBER TERM, 1977

RAY MELENDY, PETITIONER

v.

UNITED STATES POSTAL SERVICE AND
NATIONAL ASSOCIATION OF LETTER CARRIERS,
AFL-CIO

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE FEDERAL RESPONDENT IN OPPOSITION

WADE H. MCCREE, JR.,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The petition for a writ of certiorari was not timely filed. The judgment of the court of appeals in this civil suit was entered January 10, 1978 (Pet. App. A7). The time for filing a petition for a writ of certiorari was not extended and the 90-day period for filing provided by 28 U.S.C. 2101(c) expired on April 10, 1978. The petition was not filed until April 11, 1978.

The time limit imposed by 28 U.S.C. 2101(c) is jurisdictional. *Toledo Scale Co.* v. *Computing Scale Co.*, 261 U.S. 399, 417-418. Accordingly, the petition for a writ of certiorari should be denied.

Respectfully submitted.

WADE H. MCCREE, JR.,
Solicitor General.

MAY 1978.

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